October 1, 2004

CERTIFICATE OF THE SECRETARY OF ENVIRONMENTAL AFFAIRS
ON THE
DRAFT ENVIRONMENTAL IMPACT REPORT

PROJECT NAME	: Weaver's Cove LNG Project
PROJECT MUNICIPALITIES	: Fall River, Somerset, Swansea, and Freetown
PROJECT WATERSHED	: Taunton River
EOEA NUMBER	: 13061
PROJECT PROPONENT	: Weaver's Cove Energy, LLC
DATE NOTICED IN MONITOR	: August 25, 2004

As the Secretary of Environmental Affairs, I hereby require that a **Supplemental Draft Environmental Impact Report (SDEIR)** be prepared by the proponent in accordance with the Massachusetts Environmental Policy Act (MEPA) regulations and the Special Review Procedure[1] established to facilitate the federal and state review of this project.

The Draft Environmental Impact Report (DEIR) has not sufficiently addressed several issues critical to understanding the project design and how the project meets state regulatory requirements. In particular, I have significant concerns about the project, including the impacts from dredging on water quality and fisheries habitat, the management and reuse of dredge material on a site undergoing extensive remediation, and public safety. The need to consider alternatives, document impacts, and demonstrate that the project design avoids, minimizes and mitigates Damage to the Environment is necessary to comply with MGL c. 30, §§ 61-62H and the MEPA Regulations (301 CMR 11.00).

Today's decision is directed at the deficiencies of the

1 Because FERC prepared the Draft EIS/EIR, rather than the proponent, the Special Review Procedure for this project reserved the right for me to find the Draft EIR generally adequate but nonetheless require the proponent to prepare a Supplemental Draft EIR to adequately address the unresolved issues pertinent to MEPA. I am hereby invoking this provision of the Special Review Procedure.

joint federal/state document[2] only as it relates to the state requirements under MEPA. The Federal Energy Regulatory Commission (FERC) will independently consider the comments and testimony received on the Draft Environmental Impact Statement (DEIS) and determine what the appropriate process on the federal level will be to address the concerns raised. If FERC decides to produce a Supplemental DEIS for federal review purposes, it should coordinate with the MEPA Office and the proponent regarding the preparation and the sequencing of the review of state and federal documents. In the event that FERC moves forward with a Final EIS, I strongly encourage that such a filing be delayed until the state and public review of the SDEIR is complete. This will allow for continued alignment of the federal and state review as envisioned in the Special Review Procedure and assist the public in understanding the numerous complex issues associated with the project.

Project Description

As proposed in the DEIR, the project entails the construction of a liquefied natural gas (LNG) terminal in the City of Fall River, and natural gas pipeline facilities in Fall River, and the towns of Somerset, Swansea and Freetown. The proposed LNG terminal would be capable of handling LNG tankers with cargo capacities up to 145,000 cubic meters of LNG. To accommodate the anticipated 50 to 70 LNG tankers per year, the proponent proposes to dredge 2.6 to 3.1 million cubic yards of sediment from approximately 191 acres within the Taunton River and Mount Hope Bay. Proposed dredging depth would be to 37 feet below mean lower low water (MLLW). LNG unloaded from the ships would be stored in the proposed 200,000-cubic meter containment storage tank.

The project also proposes using various open trench techniques to construct two 24-inch diameter natural gas pipelines totaling 6.1 miles. One of the proposed pipelines, the 3.6-mile Northern Pipeline, would connect to the Algonquin interstate pipeline system in Freetown. The second pipeline, the 2.5-mile Western Pipeline, would cross the Taunton River and connect to the Algonquin pipeline system in Swansea. The project would also include the construction of two meter and regulation stations at the end of the pipelines in Freetown and Swansea. Both pipelines would have a design maximum pressure of 1,440 per square inch gauge.

2 I recognize that many of the issues highlighted in this Certificate were analyzed and/or discussed to some degree in the DEIS/DEIR or the resource reports, however, there needs to be more in depth analysis and discussion on these issues to ensure that state permitting agencies have adequate information on which to base their permit decisions and their Section 61 Findings.

Permitting

The project will require numerous state and federal permits. At the federal level, the project will require approvals by FERC, the United States Army Corps of Engineers (USACE), the Environmental Protection Agency (EPA), the United States Coast Guard (USCG), and the U.S. Department of Transportation (USDOT). The project will also require consultation by several other agencies with resource management responsibilities. The project is undergoing review pursuant to the National Environmental Policy Act (NEPA), with FERC as the lead federal agency. The Special Review Procedure lays out the process by which the NEPA and MEPA reviews are being coordinated.

At the state level, the project will require a Chapter 91 License, a Water Quality Certificate, a Water Supply Cross Connection Permit, a Non-Major Comprehensive Plan Approval, an Asbestos Abatement Permit, approval pursuant to the Massachusetts Contingency Plan, and a Superseding Order of Conditions (in the event of an appeal of the local Order of Conditions) from the Department of Environmental Protection (DEP). The project will also require Consistency Review by the Massachusetts Office of Coastal Zone Management Office (CZM), approval from the State Fire Marshal, and review and consultation by several other agencies with resource management responsibilities, including the Energy Facilities Siting Board (EFSB) and the Massachusetts Historical Commission (MHC). The project may also require a Site Assignment from DEP under the Solid Waste regulations and a Water Management Act permit from DEP and approvals for work within state highway lay-out from the Massachusetts Highway Department (MHD).

Because the proponent is not seeking financial assistance from the Commonwealth for the project, MEPA jurisdiction extends to those aspects of the project that have the potential to cause significant Damage to the Environment as defined in the MEPA statute and that are within the subject matter of required or potentially required state permits and approvals. In this case, MEPA jurisdiction is equivalent to full scope jurisdiction, given the large number of state permits required and the comprehensive subject matter of the required state permits

SCOPE

General

As noted previously, I established a Special Review Procedure for the MEPA review of this project to provide better coordination among state and federal agencies and to maximize

opportunities for public participation in the review of this complex project. The Special Review Procedure lays out the general requirements for outline and content of the EIR. Because of the coordinated federal and state review, I allowed the proponent to vary the format from the usual EIR format contained in Section 11.07 of the MEPA regulations. However, because the SDEIR will be reviewed under the MEPA regulations only, I strongly encourage the proponent to incorporate the following format, as described in this scope, into the document in order to facilitate its review. I also acknowledge that given the heightened security concerns and federal requirements for Critical Energy Infrastructure Information, some flexibility must be granted to the proponent with regard to the presentation and content of information in the SDEIR.

Permitting

The SDEIR should include a general description of each project element, and should briefly discuss each state permit or Agency Action required for the project. The SDEIR should demonstrate that the project can meet any applicable regulatory or statutory performance standards.

Alternatives

The SDEIR should evaluate the no-build alternative to establish baseline conditions. The SDEIR should also fully evaluate the proponent's preferred alternative, including alternative site designs, to arrive at a design that minimizes overall impacts. The SDEIR should evaluate a site design without disposal of dredged sediment on the site. The SDEIR should also evaluate alternative dredging and disposal options, as discussed in greater detail below.

The DEIR did not adequately characterize the environmental and safety impacts of potential alternatives in comparison to the preferred alternative. At a minimum, the SDEIR should provide an expanded analysis that includes detailed descriptions of the potential impacts to environmental resources and public safety associated with the alternative coastal locations examined in the DEIR, particularly Providence Harbor and the facility proposed off the shore of Cape Ann. The SDEIR should evaluate any alternative sites deemed necessary by CZM to establish coastal dependency and to otherwise comply with Coastal Energy Policy #1 and the state permitting processes, including the Chapter 91 License and the Water Quality Certification. In addition, the SDEIR should evaluate the consistency of the project with the enforceable policies of the Massachusetts Coastal Zone Management Plan.

The alternatives analysis should be organized so as to allow the review of the public safety impacts both separately and in conjunction with the environmental impacts for each alternative. This would allow reviewers to determine if a site was eliminated from consideration primarily for public safety reasons, environmental reasons, or a combination of the two.

As detailed in the Transportation section of this scope, the SDEIR should also discuss how the schedule for completing the new Brightman Street Bridge, as well as for demolishing the old Brightman Street Bridge, would affect the proposed project and the regional gas supply. It should also examine how any delay in completing the bridge may provide the opportunity for additional study and analysis of alternative potential sites for an LNG terminal.

Dredging and Water Quality

The project requires significant dredging of the navigational channel in the Taunton River to accommodate LNG tankers. The SDEIR should quantify the amount of dredged sediment to be disposed and address concerns regarding the accuracy of its volume based on a one-foot overdredge as compared to a two-foot overdredge.

The proponent's preferred alternative for dredge material disposal is on-site upland reuse, including the creation of landforms for spill containment and screening. However, DEP has raised concerns regarding the viability of the proposed upland reuse of the dredged material, as detailed in the next section. Because a fundamental purpose of a DEIR is to identify a preferred alternative on which final assessments of impacts and benefits are subsequently predicated, this issue must be resolved prior to advancing to the Final EIR.

In addition, the SDEIR should analyze open water disposal of the dredged material under the federal suitability determination procedures in order to provide reviewing agencies with the means to evaluate whether the impacts of the project as proposed have been avoided and minimized to the greatest extent possible. Such a determination is currently not possible given the absence of such information in the DEIR. The SDEIR should characterize the dredged materials for their suitability for open water disposal, and develop an alternative that incorporates both upland reuse and open water disposal.

If a modified upland reuse/open water disposal alternative is feasible under applicable regulations, the SDEIR should present a comparative analysis of the environmental impacts of the current preferred alternative (upland reuse) and the modified

alternative, including a more thorough description of existing resources, potential dredging impacts, and proposed mitigation, as detailed in the comments provided by DEP and CZM. Additional analysis of alternatives and a detailed description of the impacts of the preferred alternative will determine appropriate actions to minimize and mitigate project impacts, including time-of-year restrictions, measures to prevent scow overflow (dewatering directly from the dredge barge), and/or a shellfish reseeding program with monitoring.

As presented in the DEIR, the preferred dredging alternative would entail continuous dredging for approximately three years, including both maintenance and improvement dredging. The DEIR provided only general information regarding measures to avoid and/or minimize impacts to aquatic resources and water quality, leaving detailed management measures to be developed prior to construction. Given the potentially significant impacts to shellfish and sensitive life stages of aquatic organisms, the SDEIR should provide a more detailed description of the design and operational management of the proposed dredging in order to determine the extent of potential impacts. The SDEIR should thoroughly address all of the concerns expressed by state agencies in their comment letters regarding sediment analysis, water quality modeling, and the biological impacts of the proposed dredging.

The DEIR indicated that open buckets will generally be used for the dredging operation. However, due to the presence of fine sediments and the potential for re-suspension of dredged material in many areas, the use of an environmental bucket and/or other mitigation measures should be considered. The SDEIR should include a detailed discussion of this issue, as well as a general discussion of an environmental monitoring and testing plan for the dredging operation.

Dredged Sediment Management

The proponent proposes to manage between 2.6 and 3.1 million cubic yards of dredged sediment from the Taunton River by mixing the sediment with Portland cement and placing it on the project site, thereby raising the site's grade, constructing a containment berm, and building a landform as a visual buffer. The site is a listed contaminated site under M.G.L. c. 21E and is being regulated under the Massachusetts Contingency Plan (MCP). The Shell Oil Company is currently the Principal Responsible Party (PRP)for implementing a comprehensive response action consisting of a recovery system designed to prevent Non-Aqueous Phase Liquid (NAPL) from migrating into the Taunton River and, ultimately, to facilitate NAPL recovery.

The proposed management of dredged sediment raises *three*

major issues, the *first* of which is the potential impact of the placement of large volumes of dredged materials on the site of remedial response actions. The dredge processing area is proposed to be located over the area of recovery wells and monitoring wells associated with the NAPL recovery system. It is estimated that the sediment processing will take as many as three years to complete, operating up to 24 hours per day. The SDEIR should include a detailed plan that identifies procedures to ensure that the project would not interfere with the existing recovery system or that identifies alternative remedial approaches designed to achieve a Response Action Outcome (RAO) pursuant to the MCP.

The proponent proposes to remove the existing timber bulkhead and replace it with steel interlocking sheet piles. The SDEIR should include a detailed plan that identifies the procedures that will be established to prevent the discharge of NAPL into the river during the replacement of the bulkhead.

In addition, the SDEIR must demonstrate that the placement of a deeper bulkhead and low-permeability material (dredged sediment combined with Portland cement) on the site will not alter groundwater flow and the elevation of the water table so as to alter the migration or the recovery of the NAPL, or develop a plan for an alternative remedial approach designed to achieve a Response Action Outcome pursuant to the MCP. The SDEIR should include a groundwater flow model that depicts both existing conditions and the changes likely to result from the proposed conditions.

The *second* major issue posed by the proposed management of dredged sediment is whether the project can comply with the MCP regarding limitations on the disposal or reuse of contaminated material at a listed contaminated site. Before approving the reuse of dredged sediment, DEP must evaluate the types and extent of contamination within the sediment in comparison with the site's contaminant profile in order to prevent the occurrence of a release condition at the site that would require remediation or significantly increase contamination at the site. The DEIR did not provide sufficient information to determine compliance with these provisions of the MCP. The SDEIR should provide sufficient data to adequately characterize the nature and source of contaminants in the dredged sediment, including a Conceptual Site Model (CSM), as described in greater detail in DEP's comment letter. If the CSM cannot be used to justify the sediment sampling conducted to date, the SDEIR should provide a sampling plan to fill the data gaps identified.

As part of the proposed re-use of the dredged sediment, the proponent proposes to stabilize the sediment with Portland

cement. Changing the general chemistry of the sediment by adding Portland cement (resulting in a change of pH) may change the leaching characteristics of some of the contaminants contained in the sediment. The SDEIR should include the results of a Toxicity Characteristic Leachability Procedure, as described in greater detail in DEP's comment letter, which demonstrates that the leaching characteristics are not altered by the addition of the Portland cement.

The *third* major issue posed by the proposed management of dredged sediment is whether the volume of sediment proposed to be reused is necessary to accomplish essential site design, construction or operational objectives. Upland reuse of dredged sediments is regulated under the provisions of the Water Quality regulations (314 CMR 9.00). In order to be considered a valid reuse proposal, the proponent must demonstrate that the purposes for which the dredged sediment is being reused are reasonable and consistent with the project's design, construction and operation, and that the volume of material proposed to be reused is the minimum amount necessary to accomplish those purposes. Sediment volume that exceeds those criteria will be considered solid waste, if proposed to be disposed upland, and will be subject to management pursuant to the Solid Waste regulations at M.G.L. c. 111, s.150A and 150A1/2 and 310 CMR 16.00 and 19.00. The SDEIR should demonstrate that those site grading and landform purposes are reasonable and consistent with the project's design and that the volume of sediment proposed to be allocated to each proposed berm and landform is necessary to accomplish its function.

The DEIR recommended that the proponent develop a revised sediment reuse/disposal plan if it is unable to verify the consistency of the proposed plan with the MCP. Because the consistency of the proposed reuse plan with the MCP has not been established and the volume of permittable sediment reuse has not been demonstrated, the SDEIR should include a detailed evaluation of the alternatives to on-site upland management.

Wetlands

As currently proposed, the construction of the project within the Fall River Designated Port Area (DPA) will involve the filling of approximately 1,800 square feet of salt marsh and the replacement of approximately 4,000 linear feet of coastal bank with a riprap revetment. The preamble for the section of the Wetlands Protection Act Regulations that pertains to Designated Port Areas (310 CMR 10.26(1)) states that salt marshes and coastal banks are not likely to be significant to marine fisheries, storm damage prevention or flood control. The provision does not reference other wetland interests protected by the regulations to which these resources may contribute.

The DEIR, however, provides information that concludes that salt marshes in this DPA function so as to contribute to the protection of marine fisheries, storm damage prevention and flood control, as well as groundwater supply, prevention of pollution and protection of wildlife habitat. The DEIR states that an alternative site design that would avoid impacts to salt marsh is possible, but that it would not be a reasonable alternative to the proposed design because it would entail higher costs for design and construction and pose security concerns. The DEIR provides only cursory information about the project's impact on coastal bank and coastal dune.

The Wetlands Protection Act provides a high degree of protection to salt marshes, coastal banks and coastal dunes against any alteration or adverse impacts from construction-related activities. Although the regulations assign a different regulatory status to activities in resource areas within DPAs, the information provided in the DEIR is insufficient to evaluate the nature and extent of the potential impacts of the current proposal on these resources and their respective contribution to protected wetland interests. The SDEIR should include a thorough assessment of the impacts from dredging and site construction to wetland resource areas within the Taunton River system to determine if impacts to relatively small wetland areas, including salt marsh, coastal bank and coastal dune, are significant, regardless of the extent of the wetland resource area. Appropriate mitigation for each wetland resource area to be affected by the project should be thoroughly described to ensure resource protection and/or restoration. This information will also be relevant to Water Quality Certification review.

The SDEIR should also include a wetland mitigation and monitoring plan that will facilitate an evaluation of the restoration potential of both on-site and off-site wetlands to successfully improve degraded wetlands, restore wetlands, and lessen impacts to surrounding wetlands.

Drainage

The project, as currently proposed, is expected to have significant impacts and enormous landscape scale changes to the project site. Stormwater management, from both a quantity and quality perspective, will be an issue after project completion, but also during project construction, especially during the dredge material processing and disposal. The DEIR presented generic best management practices to address stormwater management. Given the expected magnitude of the site alteration and the complex and difficult challenges that stormwater management will likely present for this project, the SDEIR should include draft stormwater management and sedimentation control plan for review and comment.

The stormwater management and sedimentation control plan should include a thorough description of the dewatering process including the location where the dewatering is to occur if scow overflow is not allowed, and a thorough description of how the dredged sediments, including contaminated sediments, will be stabilized. The plan should also include rigorous provisions for monitoring to ensure that water quality standards are met during these processes.

Water Supply

Hydrostatic testing of the LNG storage tank will require the withdrawal of 32 million gallons of water from either a municipal source or directly from the Taunton River. An additional 760,000 gallons of water from a municipal source or the Taunton River will be required to hydrostatically test the two proposed pipelines. The proposed hydrostatic testing will likely require the need for a Water Management Act Withdrawal Permit from DEP, as well as a National Pollutant Discharge Elimination System (NPDES) Permit from EPA and DEP. The SDEIR should discuss the details of this activity, including the locations of possible withdrawal and discharge points under consideration.

In its comments, DEP also questioned whether there will be a need to supplement city water with the water from the Taunton River for the proposed on-site fire suppressant system. If so, the SDEIR should include a plan showing the location of any intake pipe.

Waterways/Chapter 91

The SDEIR should include detailed plans of the LNG terminal, pier, revetment, boat ramp, fill, other shore-side structures, the pipeline, the dredge footprint, and profiles of the cut and final depth.

Several aspects of the project will require a Chapter 91 License/Permit from the DEP Waterways Program. In accordance with the Waterways Regulations, where a gas pipeline crosses over or under water and connects existing or new infrastructure facilities located on the opposite bank of the waterway, it is considered an infrastructure crossing facility. As described in the DEIR, the pipelines from the LNG terminal to the existing gas pipeline distribution system would constitute an infrastructure crossing facility where the pipes cross waterways subject to Chapter 91 jurisdiction, including the Taunton River and any other streams that meet the criteria in the regulations. The SDEIR should discuss whether any of the streams are navigable, and, if so, by what types of vessels, as well as the expected navigational impacts during construction and post-construction.

If a stream is determined to be navigable, the pipeline crossing would require a Chapter 91 license.

The alternatives to cut-and-cover (open trenching) for the proposed pipeline under the Taunton River included horizontal directional drilling (HDD) only. The SDEIR should consider the use of other technologies for this project including plowing, jetting, and water-to-water or water-to-land HDD.

Marine Fisheries

The SDEIR should provide estimates of the range and magnitude of potential negative impacts to all finfish and shellfish fisheries and habitats in the Mount Hope Bay and Taunton River system. These estimates should be based on accurate data and models, as indicated in the comments provided by the Massachusetts Division of Marine Fisheries (DMF). The SDEIR should also discuss the likely impacts to marine fisheries from vessel operations through the embayment, proposed year-round dredging operations, the proposed use of spuds to anchor dredge barges, and the proposed withdrawal of large volumes of river water for ballast and hydrostatic testing. In addition, the document should include a comprehensive discussion of the contribution that dredging and vessel operations for this project will have on the cumulative adverse impacts to marine fisheries caused by other sources.

The SDEIR should consider appropriate time-of-year restrictions for all species of finfish and shellfish expected to be affected by the proposed dredging, especially in light of the fact that the reported construction schedule for the Brightman Street Bridge precludes the proponent's stated need for year-round dredging.

Public Safety and Security

I note that many comments were submitted regarding the safety and security of the proposed LNG terminal, particularly with regard to the federal requirements for thermal exclusion and vapor dispersion zones. I fully expect that FERC will address these issues in its review of the project. While MEPA jurisdiction is largely focused on the environmental impacts of the project, the MEPA process is an appropriate forum to address the safety and security issues surrounding the project, particularly as they relate to the examination of alternatives and navigational issues necessary for CZM to issue its federal consistency determination for the project.

The DEIR indicated that the proposed safety exclusion zone for LNG tankers is two miles ahead and one mile astern while a fully loaded vessel is en route to and from the LNG terminal.

This moving safety exclusion zone has the potential to affect both commercial maritime traffic and recreational boat traffic in Mount Hope Bay and the Taunton River. The DEIR estimates between 50 and 70 tankers will travel to and from the proposed LNG terminal annually. Because arrivals and departures would occur on subsequent days, it is reasonable to expect a moving safety exclusion zone within Mount Hope Bay and the Taunton River for a portion of as many as 140 days per year.

The DEIR did not indicate whether a safety exclusion zone would be maintained around tankers while they are off-loading. The SDEIR should confirm if a safety exclusion zone would be maintained around the LNG tanker for the entire 24-hour period that it is offloading at the LNG terminal (as many as 70 full days annually).

The SDEIR should discuss anticipated safe distances for vessels, either commercial or recreational, while the LNG tanker is off-loading and describe whether there would be a safety exclusion zone around the facility itself and, if so, the anticipated dimensions of that zone. The discussion should also address whether, in the course of off-loading, the active channel would be closed to any and all vessels, and if so, the duration of closure.

The SDEIR should discuss how the safety exclusion zone would be implemented, including methods for notifying other large vessels and smaller recreational and commercial boats and the amount of time between notification and implementation of the exclusion zone. The SDEIR should also indicate whether the exclusion zone would affect public access along the shoreline. Impacts to existing boating activities and public access should be minimized to the greatest extent possible without compromising necessary safety and security procedures.

The DEIR did not include a detailed contingency plan that considers different incident scenarios at the LNG terminal. The SDEIR should either include or report on the status of a contingency plan that addresses evacuation, traffic management, and emergency vehicle routing, including a scenario in which the Brightman Street Bridge and/or the Braga Bridge is closed to traffic. The plan should identify how emergency response vehicles would gain access to incident areas if the transportation infrastructure is compromised. The proponent should work with all private and public agencies involved in incident management to prepare this plan.

Transportation

The project, as currently proposed, could have significant impacts on traffic operations and highway safety of both the

state highway system and the regional transportation network. The LNG terminal could affect operations at the two bridges that span the Taunton River near the project site, the Braga Bridge (I-195) and the Brightman Street Bridge (Route 6). MHD is currently constructing a new bridge to replace the existing Brightman Street Bridge, which will be demolished. The DEIR assumed that the new bridge would be constructed by 2008 to coincide with the proposed start of operations. However, MHD has indicated that it is unlikely that the new bridge would be constructed by that date. Moreover, demolition of the existing Brightman Street Bridge cannot occur until the new bridge is operational. Because the LNG terminal cannot start operations until both the new bridge has been constructed and the old bridge demolished, the SDEIR should address this discrepancy in the schedules and discuss the project's potential traffic impacts and any proposed mitigation measures.

In addition, operational requirements and security concerns would require closing the new Brightman Street Bridge, and possibly the Braga Bridge as well, as LNG tankers pass underneath. MHD has indicated that simultaneously closing the two main travel routes across the Taunton River would have significant regional traffic impacts. The DEIR indicated that security plans would allow for one of the bridges to remain open. However, the DEIR did not provide an adequate analysis to document the traffic impacts to the Braga Bridge if the Brightman Street Bridge is closed, as well as mitigation measures to address these impacts. The SDEIR should provide this information.

The SDEIR should demonstrate that dredging operations and tankers traveling in the channel would not compromise the integrity of the bridges' substructures. The SDEIR should include conceptual plans that show tanker and channel lateral widths, and clearance heights to ensure that the fender systems on both bridges are adequate for the passage of an LNG tanker.

The project site is located near the Route 79/North Main Street interchange, which has substandard ramp geometries to accommodate truck traffic to and from the project site. The proponent would be required to implement roadway improvements at this location, which may include, but not be limited to, increasing the length of the acceleration and deceleration lanes on Route 79 and improved geometric improvements at the North Main Street intersections. The SDEIR should address MHD's comments and include conceptual plans for these necessary improvements.

Air Quality

The DEIR included an emissions inventory for the project and estimates that direct and indirect emissions will exceed the emission threshold for nitrogen oxides (NOx) and, therefore,

trigger the need for a General Conformity Determination for this pollutant by FERC in accordance with federal Clean Air Act (CAA). Because the emissions from the project are not included in the State Implementation Plan (SIP) for eastern Massachusetts, the analysis should explore mitigation measures to offset NOx emissions from the project. The SDEIR should propose mitigation measures to offset the NOx emissions from the project in order to demonstrate that the SIP can accommodate increases in NOx emissions and thereby demonstrate attainment of the eight-hour ozone standard.

A Non-Major Comprehensive Plan (NMCP) Approval is required for the proposed shop fabricated natural gas fired hot water/glycol heaters that will provide heat to vaporize LNG for pipeline transmission. The DEIR indicated that the hot water/glycol heaters will be equipped with Ultra-Low NOx Burners (ULNB), which represents the Best Available Control Technology (BACT). However, in consideration of the fact that air quality modeling is, by nature, predictive, the SDEIR should evaluate and incorporate alternative water/glycol heater designs to reduce particulate matter (PM_{10}) ground level impacts.

The DEIR did not indicate how odorant storage, pipeline odorant injection, spent odorant storage containers, etc. will be designed and managed to prevent the occurrence of a condition of air pollution resulting from the release of odorant to the ambient air. The SDEIR should also include a detailed discussion of these issues.

Historic and Archaeological Resources

In its comments, MHC requested additional intensive (locational) archeological surveys for archeologically sensitive portions of the proposed pipeline route variations and the meter station and avoidance and/or site examination archeological surveys for two potentially significant archeological sites. The SDEIR should also include a determination of the Area of Potential Effect for historic architectural resources, as described in MHC's comment letter. The proponent should continue to work with MHC to ensure that the project either avoids, or minimizes and mitigates adverse impacts to significant historic and archeological resources.

Comments and Circulation

At a minimum, the SDEIR should respond to the substantive concerns raised in the comment letters to the extent that they

are within MEPA jurisdiction. I also encourage the proponent to review the comments submitted into the FERC Public record and to use this opportunity to address concerns that may not have been

formally raised in the MEPA process.

The SDEIR should include a copy of each comment letter submitted to the Secretary of Environmental Affairs (listed at the end of this Certificate) and respond to each substantive comment. The proponent should circulate a hard copy of the SDEIR to each federal, state and local agency from which the proponent will seek permits or approvals.

To save paper and other resources, I will allow the proponent to circulate the SDEIR in CD-ROM format to individual commenters, although the proponent should make available a reasonable number of hard copies available on a first come, first served basis, to accommodate those without convenient access to a computer. In the interest of broad public dissemination of information, I encourage the proponent to send a notice of availability of the SDEIR (including relevant comment deadlines, locations where hard copies may be reviewed and electronic copies obtained, and appropriate addresses) to those who submitted comment letters to FERC. This notification may take the form of electronic notification for those comments submitted via e-mail.

Mitigation

The SDEIR should include a summary of all mitigation measures to which the proponent is committed. The SDEIR should also include revised draft Section 61 Findings for use by the state permitting agencies.

October 1, 2004
Date

Ellen Roy Herzfelder

ERH/RAB/rab

Comments[3] received on the DEIR:

8/31/04 MHC
9/7/04 Brian Pearson
9/8/04 Resolution of the Massachusetts General Court
9/8/04 Stanley G. Dimock
9/9/04 Fall River Dept. of Health and Human Services
9/10/04 Partners for a Healthier Community

3 I note that many reviewers submitted comments to FERC and not MEPA. I have reviewed these comments, including the transcripts from the public hearings, as I am authorized under 301 CMR 11.08(2), and they have factored into this decision to the extent that the issues raised fall within MEPA jurisdiction.

9/12/04 Raymond Leary
9/13/04 Stephan Brigidi
9/15/04 Roger W. Hood
9/15/04 John C. Keppel
9/15/04 Margaret M. Soroka
9/16/04 SRPEDD
9/16/04 Corporate Environmental Advisors
9/17/04 DMF
9/17/04 Representative David B. Sullivan
9/17/04 Somerset Conservation Commission
9/17/04 US Dept. of Commerce/NOAA
9/17/04 Jeanne E. Fulford
9/17/04 Michael L. Miozza, Ph.D.
9/18/04 Green Futures
9/19/04 Karen Smigel, MD
9/20/04 ESS Group (for City of Fall River)
9/20/04 US EPA
9/20/04 Piper Rudnick (for Shell Oil Products US)
9/20/04 Debra L. Shewood
9/21/04 Save the Bay/John Torgan
9/22/04 Taunton River Watershed Alliance
9/22/04 Alfred J. Lima
9/22/04 Friends of LNG
9/23/04 Anderson & Kreiger (for Merchant Mills Limited Partnership)
9/23/04 The Nature Conservancy
9/24/04 Mayor Edward M. Lambert, City of Fall River
9/24/04 Rhode Island Dept. of Attorney General
9/23/04 Riverways Program
9/24/04 DEP/NERO
9/24/04 CZM
9/24/04 Cecile J. Montplaisir (2)
9/29/04 EOTC/MHD